

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JILL DILLARD, JESSA SEEWALD,
JINGER VUOLO, and JOY DUGGAR

PLAINTIFFS

v.

CASE NO. 5:17-cv-05089-TLB

CITY OF SPRINGDALE, ARKANSAS;
WASHINGTON COUNTY, ARKANSAS;
KATHY O'KELLEY, in her individual and
official capacities; ERNEST CATE, in his
individual and official capacities; RICK HOYT,
in his individual and official capacities; STEVE
ZEGA, in his official capacity; BAUER
PUBLISHING COMPANY, L.P.; BAUER
MEDIA GROUP, INC.; BAUER, INC.;
HEINRICH BAUER NORTH AMERICA, INC.;
BAUER MEDIA GROUP USA, LLC; and
DOES 1-10, inclusive

DEFENDANTS

SEPARATE DEFENDANTS' NOTICE OF INTERLOCUTORY APPEAL

Comes now Separate Defendants, Kathy O'Kelley and Ernest Cate, each in their individual capacities, by and through undersigned counsel and for their Notice of Appeal, state:

Notice is given that Separate Defendants Kathy O'Kelley and Ernest Cate, in their individual capacities, hereby appeal to the United States Circuit Court of Appeals for the Eighth Circuit from the Order entered in this matter on the 29th day of September, 2017, denying in part Separate Defendants' Motion to Dismiss, which was premised upon, among other defenses, qualified immunity as to Plaintiffs' federal claims and state law claims, and state statutory immunity on Plaintiffs' state law claims. This appeal is taken pursuant to *Mitchell v Forsyth*, 472 U.S. 511 (1985) and *Ashcroft v. Iqbal*, 556 U.S. 662, 671 (2009), which allow for the taking of an interlocutory appeal after denial of a motion dismiss premised on, *inter alia*, qualified immunity. State statutory immunity is likewise immunity from suit and, pursuant to the Court's

supplement jurisdiction, Separate Defendants O'Kelley and Cate, individually, appeal the denial of statutory tort immunity for any remaining tort following the District Court's Order granting in part and denying in part Separate Defendants' Motion to Dismiss. *Trammell v. Wright*, 2016 Ark. 147.

Respectfully Submitted,

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**COUNSEL FOR SPRINGDALE
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 10th day of October, 2017, a true and correct copy of the above and foregoing was filed with the Clerk via the CM/ECF system which will send notification of filing to the following:

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